IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.R.UDAYABHANU

FRIDAY, THE 29TH JUNE 2007 / 8TH ASHADHA 1929

Crl.Rev.Pet.No. 642 of 1999()

CRA.227/1997 of SESSIONS COURT, KASARAGOD
CC.279/1996 of CHIEF JUDICIAL MAGISTRATE, KASARAGOD
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REVN. PETITIONER: APPELLANT/ ACCUSED

S.SHIVA, S/O.THIMMAPPA,
RESIDING AT SEETHANGALI, P.O.EDHAD , KUMBLA,
KASARAGOD DISTRICT

BY ADV. SRI.M.SASINDRAN

RESPONDENT/ RESPONDENT/ COMPLAINANT
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1. P.VIJAYAN, S/O. GOVINDAN NAIR,
RESIDING AT SEETHANGALI, P.O.EDNAD,
KUMBLA, KASARAGOD DISTRICT.

2. STATE OF KERALA REP.BY THE
PUBLIC PROSECUTOR ,
HIGH COURT OF KERALA, ERNAKULAM.

BY ADV. SRI.SREEPRAKASH K.NAIR
PUBLIC PROSECUTOR SRI.AMJAD ALI.

THIS CRIMINAL REVISION PETITION HAVING BEEN FINALLY HEARD ON 29/06/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

CRL.RP. NO.642/1999

ORDER ON CRL.MP. 2840/1999 IN CRL.RP. NO.642/1999

DISMISSED

29.06.2007 **SD/- K.R.UDAYABHANU, JUDGE**

/TRUE COPY/

P.S. TO JUDGE

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K.R. UDAYABHANU, J.

Crl. R.P. No. 642 of 1999

Dated 29th June, 2007

ORDER

The revision petitioner/accused stands convicted for the offence under section 138 N.I.Act and sentenced to pay a fine of Rs.20,000/- and in default to undergo simple imprisonment for 3 months. It is also directed that out of the fine amount, Rs.15,000/- shall be paid to the respondent.

2. The case of the complainant is that towards the amounts due for the purchase of textiles from his shop named M/s. Hitex Garments, the accused/revision petitioner issued two cheques dated 9-4-96 for a sum of Rs.5000/-. The cheques when presented for encashment was dishonoured for want of funds in the account of the accused.

3. The evidence adduced in the matter consisted of the testimony of PWs 1 and 2 and Exts.P1 to P7. On a consideration of the evidence adduced in the matter and

the concurrent findings of the courts below, I find no merit in the contentions of the revision petitioner that the complainant has failed to establish the allegations. It has to be noted that no reply was sent to the lawyer notice issued nor evidence adduced to rebut the statutory presumptions. In the circumstances, the conviction is confirmed. Considering the plea of the counsel , the sentences is modified to pay a fine of Rs.15,000/- and in default to undergo simple imprisonment for 3 months. The fine amount if realised shall be paid to the complainant. The revision petitioner is granted one month's time from today onwards to remit the fine amount, less the amount if any deposited.

The Crl.R P is disposed of accordingly.

K.R.UDAYABHANU,
JUDGE.

Kvm/-

K.R.UDAYABHANU, J.

CRL.R.P. NO. 642 OF 1999

ORDER

29-6-2007.